

**SUPREME COURT MINUTES
THURSDAY, DECEMBER 24, 1998
SAN FRANCISCO, CALIFORNIA**

S030514 In re Kenneth Earl Gay
 on
 Habeas Corpus

The petition for writ of habeas corpus is granted. The judgment is vacated insofar as the penalty of death is imposed. Petitioner is remanded to the custody of the Sheriff of the County of Los Angeles (see § 1493) to be held pending retrial of the penalty phase of the prosecution of petitioner for murder in People v. Raynard Paul Cummings and Kenneth Earl Gay, Los Angeles Superior Court No. A392702.

Respondent shall cause notice of the writ to be served on the District Attorney of the County of Los Angeles upon the finality of this opinion. (See § 1382, subd. (a)(2).) Should petitioner not be granted a new penalty trial within the time specified in section 1382 or any continuances granted by the superior court, the court shall impose the penalty of life without the possibility of parole.

Baxter, J.

We Concur:

Mosk, J.

Chin, J.

Brown, J.

Peterson, J.*

Concurring Opinion by Mosk, J.

Concurring Opinion by Werdegarr, J.

I Concur:

Kennard, J.

*Hon. J. Clinton Peterson, Retired Presiding Justice, Court of Appeal, First Appellate District, Division Five, originally assigned, pursuant to article VI, section 6 of the California Constitution, by former Chief Justice Malcolm M. Lucas, in conjunction with the issuance of the order to show cause, and reassigned by the Acting Chief Justice upon Justice Peterson's retirement.

S047306 People, Plaintiff and Respondent

v.

David Hernandez, Defendant and Appellant

We reverse the judgment of the Court of Appeal.

Chin, J.

We Concur:

George, C.J.

Kennard, J.

Baxter, J.

Dissenting Opinion by Werdegarr, J.

I Concur:

Mosk, J.

Dissenting Opinion by Brown, J.

S063524 People, Respondent

v.

Johnny Ardean Hagen, Appellant

The time for granting or denying a rehearing in the above cause is hereby extended to and including March 7, 1999, or the date upon which a rehearing is either granted or denied, whichever occurs first.

S065021 Jabes Salgado et al.

v.

County of Los Angeles

The time for granting or denying a rehearing in the above cause is hereby extended to and including March 7, 1999, or the date upon which a rehearing is either granted or denied, whichever occurs first.

S062258 In re Sirhan Bishara Sirhan

on

Habeas Corpus

On application of the Attorney General and good cause appearing, it is ordered that the time to serve and file the informal response is extended to and including February 5, 1999.